

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VALERO MARKETING AND SUPPLY COMPANY, §
Plaintiff, §
VS. § CIVIL ACTION NO. H-03-4317
SAVOY TRUCK STOP, §
Defendant. §

MEMORANDUM AND ORDER

Pending before the Court are the parties' joint motion to extend the abatement of this case, pending an Internal Revenue Service ("IRS") decision whether to refund the tax payments that Plaintiff seeks to recover from Defendant, and Plaintiff's motion for dismissal without prejudice and to toll the statute of limitations. According to the parties, the IRS has stated that it will not resolve the refund question earlier than September 2006, by which time this case will be approaching the three-year anniversary of its filing.

While the Court is reluctant to abate this case once again, neither the interests of justice nor judicial economy would be served by a premature resolution of this case by the Court, as the forthcoming IRS ruling may render it moot. Accordingly, the case is hereby **ABATED** until such time as either party shall seek to reactivate it upon receipt of the IRS decision.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 9th day of August, 2006.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**